

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

June 11, 2003

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. **Public Workshop – Downtown Anchorage, Switzer Creek, and B Street/Broadway Piers TMDLs** *(Brennan Ott)*

Sediments in San Diego Bay in the vicinity of Downtown Anchorage, B Street/Broadway Piers, and near the mouth of Switzer Creek are contaminated with anthropogenic chemicals. In addition, these sites contain degraded benthic macroinvertebrate communities, and samples from these areas have been demonstrated to be toxic to various marine invertebrate species in laboratory toxicity tests. As a consequence, these sites have been identified as areas of impaired water quality. In response to this contamination, the Regional Board has initiated efforts to develop a Total Maximum Daily Load (TMDL) for each of these sites in order to reduce ongoing loadings of contaminants of concern.

The Regional Board conducted a combined public workshop and California Environmental Quality Act (CEQA) scoping meeting on the Downtown Anchorage, Switzer Creek, and B Street/Broadway Piers TMDLs on April 21, 2003. The purpose of the public workshop was to inform the public about the need and plans for these three TMDL projects, request information and data, engage the stakeholders early in the process, answer questions, and receive public comments. The objective of the CEQA scoping meeting was to receive comments on the scope of issues to be addressed in the “functionally equivalent” environmental documents pursuant to CEQA Section 21080.5 of the California Public Resources Code. Approximately 15 people attended the workshop, including representatives from the Unified Port District of San Diego, the City of San Diego, environmental organizations and the public. Fieldwork is anticipated to commence the week of July 7, 2003.

2. **Regional Work Bench Consortium Exposition** *(Mike Porter)*

The Regional Board (Chairman John Minan, Executive Officer John Robertus, and staff member Mike Porter) participated in a one-day exposition for the Regional Work Bench Consortium (RWBC). The RWBC is organized and funded by the University of California San Diego's Urban Studies and Planning Program and the Superfund Basic Research Program (through the National Institute of Environmental Health Sciences). The exposition was a “roll-out” to the community to describe and demonstrate the purpose and capabilities of the RWBC. The exposition included a plenary session and four demonstrations. The demonstrations showed that through shared access of data and knowledge by agencies and the public, and through the capabilities of the UCSD Super

Computing Center, environmental, public, and social health can be improved at the regional level. If this system of data and knowledge storage and access were used, water quality data (numerical and graphical) could be stored and shared at a central, digital repository for use by all. Water quality trends could also be more effectively tracked by the Regional Board. The RWBC website, including exposition information, is at <http://www.regionalworkbench.org>.

3. Conference on Sanitary Sewer Overflow Prevention Held on May 20, 2003 (*Chiara Clemente*)

On May 20, 2003, the South Coast Water District hosted a one-day conference focused on the prevention of sanitary sewer overflows (SSOs), in partial fulfillment of settlement requirements outlined in ACL No. R9-2003-0037. John Robertus attended this conference with Board Member Eric Anderson and staff. The Regional Board provided a presentation titled, "Guiding Principles of SSO Prevention & Key Elements of Effective Sanitary Sewer Overflow Prevention Plans (SSOPPs)" which is now available on the Regional Board's web site: <http://www.swrcb.ca.gov/~rwqcb9/programs/sso.html>. All staff that attended found the conference to be both extremely well planned and conducted. The conference met a real need to elevate the importance of preventing and responding to SSOs and the extraordinary efforts being made by local districts to protect water quality and public health. It also was successful in driving home the value of the work performed by collection system crews.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) (*Chiara Clemente, David Hanson, Bryan Ott, Victor Vasquez*) (*Attachment B-1*)

From May 1 to May 31, 2003, there were 25 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 14 of these spills reached surface waters or storm drains, and one resulted in closure of recreational waters. Of the total number of overflows from public systems, 5 were 1,000 gallons or more.

Five sewage overflows from private property were also reported from May 1-31; one was 1,000 gallons or more. Four of the private property spills reached surface waters or storm drains; one resulted in closure of recreational waters.

A total of 0.30 inches of rainfall were recorded at San Diego's Lindbergh Field for May 2003. For comparison, in April 2003, 1.41 inches of rainfall were recorded, and 32 public SSOs were reported. In May 2002, no rainfall was recorded and 40 public SSOs were reported.

Regional Board staff has updated the sewer overflow statistics for each sewer agency by fiscal year (FY) since FY 1998-99 in the attached table entitled "Sanitary Sewer Overflow Statistics." The annual report that was included in the agenda materials for the January

Board meeting, titled "Public SSO Statistics Summary for FY 2001-02," is also attached. Staff is in the process of gathering information to report spills using a new reporting parameter (i.e. volume of sewage spilled/total volume conveyed through each system) and will continue to improve the manner that SSO data is presented in the future in order to provide the Regional Board the most meaningful and insightful information.

One Notice of Violation (NOV), with a Request for Technical Report (RTR), was issued in May for recent significant overflows. The NOV was issued to the following agency for the events described below:

United States Marine Corps Base, Camp Pendleton

Two large overflows occurred from USMCB Camp Pendleton, for which NOV No. R9-2003-0254 and RTR was issued on May 29. A description of the two overflows is as follows:

- A 150,000-gallon overflow from sewage treatment plant (STP) No. 13 that began on April 14, 2003. The Base reported that this overflow occurred because a Base contractor had set up a temporary bypass system from the primary clarifiers to the trickling filters that did not provide sufficient transport capacity. As a result, primary treated effluent overflowed from the clarifiers, down an embankment, to the Twin Lakes, and then to the Santa Margarita River. It is the Regional Board's understanding that this overflow did result in the closure of recreational waters. No information on this closure, however, was provided in the written report.
- Also on April 14, 2003, a 14,400-gallon sanitary sewer overflow occurred from Base manhole Nos. 3-Y-2, 3-Y-3, 3-Y-4, and 3-Y-76, directly upgradient from STP No. 3. The Base reported that this overflow occurred due to inflow of rainwater to the collection system. The overflow discharged to a storm drain system that empties directly to the Santa Margarita River, and resulted in closure of Del Mar Beach for 4 days. This is the third time in the past 12 months that an overflow has occurred at this location.

For additional actions regarding this matter, refer to the Item 13 in this report titled "USMC Camp Pendleton Consent Decree."

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in May 2003

(Stacey Baczkowski) (Attachment B-2)

| DATE | APPLICANT | PROJECT TITLE | PROJECT DESCRIPTION | CERTIFICATION ACTION ¹ |
|--------|--------------------|--|--|-----------------------------------|
| 5/1/03 | City of Dana Point | Phase II Storm Drain Improvement Project | Construction of a diversion structure that would divert the dry season low-flows into an existing sanitary system; by-pass flow would discharge directly into the ocean. | Conditional |

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|---------|--|---|---|-------------|
| 5/6/03 | Otay Mesa Property LP | Rancho Vista del Mar | Creating three construction staging and parking pads for the Otay Generating Plant. | Withdrawn |
| 5/6/03 | North San Diego County Transit Development Board | Emergency Bridge Repairs to Railroad Bridge 259.6 over Rose Creek | Expansion of a permitted project footprint for construction of a parallel replacement bridge and removal of existing burnt bridge structure. | Standard |
| 5/8/03 | Prestige Homes | Skylake Estates | Replace culverts, widen the road, and placement of utilities underground along Olive Hill Road (in the Bonsall area). | Standard |
| 5/12/03 | Port of San Diego | Programmatic Certification – Maintenance | Maintenance, repair, minor upgrades, and minor alterations to existing facilities or structures in San Diego Bay. | Conditional |
| 5/19/03 | Regency Centers | Clinton Keith Village Center | Commercial development of a 10-acre site consisting of a 0.5 acre retention basin, 88,200 square feet of building area, and 531 parking stalls (in the Murrieta area). | Conditional |
| 5/20/03 | Pardee Homes | Point Carmel Residential Project | Development of 85 residential units on approximately 21.4 acres (in the Miramar area). | Conditional |
| 5/20/03 | Brookfield Land Company, Inc. | The Wallach Property | Temporary realignment of a unnamed tributary to Warm Springs Creek to facilitate the expansion of Winchester Road (Hwy 74), and construction of a recreational park and commercial development (in the Murrieta area). | Conditional |
| 5/23/03 | Prestige Homes | Skylake Estates | Development of 43 residential units on large lots plus associated improvements on +/- 140 acres (in the Bonsall area). | Conditional |
| 5/23/03 | County of Orange, PFRD | Dana Point – Ocean Outlets | The applicant proposes to place minor fill in the waters of the U.S. at four County operated beaches located within the City of Dana Point. Four sites require fill (less than 25 cubic yards) of scour holes and a diversion berm. | Conditional |
| 5/23/03 | Highpointe Communities | Clayton Ranch TT#29607 | Construction of 149 single family homes on 58.8 acres and creation of three open space lots totaling 13.5 acres (in the Murrieta area). | Conditional |

1 Standard certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but

by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html.

3. 401 Water Quality Certification Language in Agenda Notice (*Stacey Baczkowski*)

During the May 2003 Board meeting, Board members requested clarification on the appeal process as it relates to 401 Water Quality Certification (WQC) decisions made by the Executive Officer. Confusion regarding the appeal process centered on whether or not an applicant, or other member of the public, could ask the Regional Board to reconsider a WQC decision made by the EO and/or appeal the decision to the State Board. Notification language to be included in future agendas and letters denying WQC is currently being developed and will be provided to the Board during the August 13, 2003 meeting. This matter will be discussed by all Regional Board Executive Officers and SWRCB Executive staff at the MCC meeting on June 24, 2003.

4. Industrial Storm Water Inspection Coordination (*John Phillips*)

At the May 14, 2003 Regional Board meeting, Board members expressed concern about coordination between the municipal copermittees and the Regional Board to avoid duplication of industrial storm water inspections.

The Regional Board has been coordinating with the copermittees to increase the number of industrial stormwater inspections. The copermittees are required to select high priority facilities for inspections. The Regional Board has also been conducting inspections of facilities not visited by the copermittees. Until the May 14 Board meeting, no complaints had been received about lack of coordination or duplication of inspections. Specifically, industrial storm water dischargers and the municipal copermittess conducting inspections have not reported problems with duplication of storm water inspections.

The Regional Board will continue to work with the copermittees to reduce duplication of inspections. These efforts include tracking copermittee inspections, providing the copermittees with Regional Board inspection reports, conducting joint inspections as needed, and coordination of complaint investigations. Also, the Regional Board is tracking the copermittees inspections on an internal inspection tracking database. It is not our intent to inspect any facility recently inspected by the copermittees unless there are water quality issues that must be addressed under the state general permit. Starting in July, the copermittees will be notified of our inspections within their jurisdiction at least one week early, and we request any information they may have on the facility and if they would like to participate in the inspection. Because of noncompliance at some industrial facilities repeat inspections have been necessary.

Coordination of industrial inspections will continue and the copermittees will continue to inspect their high priority facilities throughout this year and provide the Regional Board

with the inspection reports. Regional Board inspectors will evaluate the industrial Annual Reports (due July 1) and prioritize inspections to be conducted by the Regional Board.

5. Complaint Regarding Power Washing Discharge by the City of San Diego (*Stacey Baczkowski*) (*Attachment B-5*)

On May 9, 2003, the Regional Board received a complaint from Mr. Marvin Winters regarding the City of San Diego's (City) power washing policy (Attachment B-5). The City policy currently allows power washers working within the public right-of-way to discharge wash water to the storm drain if certain Best Management Practices (BMPs) have been implemented. The City's policy is in violation of the Municipal Storm Water Permit (Order No. 2001-01); sections B.1, D.1.b.(4), and D.1.b.(5) which prohibit(s) non-storm water discharges, discharges of wash water from power washing, and discharges of wash water from cleaning impervious surfaces, respectively. Discharges of wash water from power washing are not permitted even if BMPs are implemented. The Regional Board met with Ms. Karen Henry and Mr. Antonius Evans (City) to discuss compliance with the permit. The City will submit to the Regional Board, by mid-June, a letter detailing the steps they will take to prohibit power washing discharges. The City was asked to include in the letter the measures they will implement in the interim to prevent pollutants from entering the storm drain, measures they will implement to eliminate wash water discharges to the storm drain, and a time schedule for compliance.

6. Budget Trade and Gas Status (*Sue Pease*) (*Attachment B-6*)

At the February 2003 Board meeting, the Board directed staff to determine whether a human health risk assessment could be performed by a public agency for the risk presented to nearby businesses and residents from vapors associated with pollutants in soil and ground water from the Budget Trade and Gas site in Escondido.

Staff contacted the Air Pollution Control District (APCD) and the San Diego County Department of Environmental Health (DEH). The APCD informed staff that a risk assessment would be performed as part of compliance with Rule 1200 before permitting the operation of the high-vacuum-dual-phase extraction unit. Staff wrote a letter to Dr. Michelle Ginsberg, Chief of the Community Epidemiology Division of the DEH, requesting that her division conduct the risk assessment. The DEH responded by letter dated May 16, 2003 (attached), that neither the Epidemiology Division nor the DEH conduct such health risk assessments.

To ensure that a health risk assessment is conducted as expeditiously as possible, Addendum No. 6 to Cleanup and Abatement Order No. 2000-255 was issued. Addendum No. 6 requires the discharger, Mr. Jimmy Hsu, to perform a vapor risk assessment that determines whether or not the workers and residents in nearby businesses and homes are being exposed to harmful concentrations of vapors from the pollutants in the soil and ground water. The vapor risk assessment report is due December 15, 2003.

7. Santa Ysabel Groundwater Cleanup Recent Developments (*Barry Pulver*) (*Attachment B-7*)

Ms. Kristi Kor of AmeriMex Inc., owners of the Wright Fuel Stop in Santa Ysabel, sent a letter to San Diego County Supervisor Dianne Jacob complaining about the investigation order issued to her by the Regional Board. The order requires AmeriMex to submit a technical report of the results of an enhanced leak detection test of the station's underground storage tanks. The letter also alleges unprofessional behavior on the part of staff. Supervisor Jacobs forwarded the letter to Mr. Arthur G. Baggett, Jr., State Water Resources Control Board Chair, who requested that the Executive Officer respond to Ms. Kor's complaints. Ms. Kor has indicated to staff that she may attend the Board Meeting to discuss her concerns during the public forum item. A copy of the Executive Officer's letter of response to Ms. Kor is attached for the Board Members information.

8. Complaint Investigation: Driftwood Estates in Laguna Beach (*Jeremy Haas*)

During public forum at the April 2003 Regional Board meeting, Penny Elia expressed concerns about activities at the proposed Driftwood Estates development project in Laguna Beach. Similar concerns were expressed by Ms. Elia at the June 2002 Regional Board meeting. Specific concerns included unpermitted fill of an ephemeral canyon drainage and flooding and mud flows from inadequate temporary stormwater best management practices for the cleared lots. The July 2002 EO Report provided a status report on the project. The current proposed development includes 11 houses on 10 acres of the 220-acre site. The property includes natural and partially graded hillsides and canyon areas in Laguna Beach. Downgradient of the property are developed subdivisions. On-site channels effectively end with connections to MS4 systems at the downstream property boundary. The proposed development is currently before the City Council.

Two Regional Board programs are involved in the complaint. First, filling in waters of the State requires Waste Discharge Requirements or Section 401 Water Quality Certification if a Federal U.S. Army Corps of Engineers (USACE) Section 404 permit is required. To date, neither has been sought by the developer. Second, a Notice of Intent (NOI) and implementation of a storm water pollution prevention plan for the Statewide Construction Stormwater General Permit (Water Quality Order No. 99-08-DWQ) is required if over 1 acre of soil is disturbed and exposed (the threshold was for sites over 5 acres prior to 2003). No NOI has been received by the SWRCB for this project.

Following the April Board meeting, both Ms. Elia and the developer, Highpoint Communities, provided documentation to the Regional Board. On April 23, 2003 Jeremy Haas of the Northern Watershed Protection Unit visited the site with representatives of the developer and learned that the proposed development sites were graded on the property approximately 40 years ago, at which time the lower part of the disputed canyon ephemeral drainage was filled. Since that time, runoff from the ephemeral channel area has been directed into the street/MS4 at the point it reaches the fill area. No other on-site waters are proposed for fill as a result of the project. Other lower portions of the property include graded pads.

With respect to the unpermitted fill, the developer submitted aerial photos to suggest that the fill was done in the 1960s. The complainant alleges that the fill was conducted as part of illegal grading by the property owner and was investigated by the County of Orange without resolution. The area was annexed by the City of Laguna Beach in the 1980s, and the City's planning maps identify the filled drainage as a watercourse, so the developer is seeking a variance from the City to remove the watercourse designation from the filled area. Three of the 11 houses are planned for this portion of the property.

The USACE has not made a determination of the jurisdictional status of the filled channel. If the USACE determines that the previous fill should be considered part of this project, then a 404 permit would be required and the Regional Board would need to provide a Section 401 certification. Because of the lack of downstream water resources and the generally natural condition of existing on-site waters, the enhancement and preservation of on-site waters instead of restoration of the filled channel(s) would likely be requested as compensatory habitat mitigation. If the USACE agrees with the developer and does not take jurisdiction over the previously filled ephemeral channel, then the Regional Board could issue Waste Discharge Requirements if it determines that the developer caused and/or permitted the discharge of fill into the unnamed creek and adversely impacted beneficial uses.

A second complaint involves stormwater runoff. Ms. Elia is concerned that flooding and mud/debris flows have been exacerbated by the grading, which has resulted in property damage to neighbors. Ms. Elia alleges that until last year, the graded area's soils had been cleared annually for weed abatement purposes, resulting in exposed soils that contributed to excessive discharges of sediment and stormwater into the streets and adjacent houses. The site currently has a number of sandbag facilities within the graded areas and at least three plastic pipes at sandbag basins that collect water from the site and convey it to streets. In the early 1990s, the City requested drainage fixes and the owner appears to have responded with the temporary diversions. In 1997 the owner reported to the City that an erosion control plan was being developed by a consultant. The city is aware of the current complaints, and a City Councilperson is facilitating negotiations between neighbors and the developer on construction stormwater plans.

During the April 23 meeting on site, the developer acknowledged an understanding that coverage under the Statewide Construction Stormwater General Permit is required if the site's soils are exposed. The developer stated that coverage has not been obtained to date because weeds have been cut to a foot or so in height for weed management and that soils have not been effectively exposed. Leaving cropped vegetation on-site would serve as erosion control and would not trigger coverage under the Construction Stormwater Permit. The site should be inspected after weed management activities have occurred. At this time no further Regional Board action is warranted.

9. San Diego Municipal Storm Water Permit Update (Phil Hammer)

On May 16, 2003, the Regional Board participated in the San Diego County Water Authority-sponsored Landscape & Water Symposium at Cuyamaca College. At the symposium, Phil Hammer gave a presentation which covered how municipal storm water permits apply to the various sectors of the landscaping industry. Topics included water quality issues associated with landscaping, regulations applicable to landscaping, and landscaping solutions to address water quality issues. An audience of over 100 landscapers, landscape architects, irrigators, and water district representatives were present at the symposium.

We will continue to invest significant resources reviewing the Annual Compliance Reports recently submitted by each Copermittee describing their urban runoff programs and activities. These reports contain descriptions of all urban runoff management activities conducted by each Copermittee during the previous year. Upon completion of review of the Annual Compliance Reports, each Copermittee will receive written comments on the findings of the review.

10. Ramona Landfill (*Carol Tamaki and John Odermatt*)

On May 21, 2003, the Regional Board staff convened a meeting with representatives from Allied Wastes Inc., County Air Pollution Control District, and the San Diego County Department of Environmental Health to discuss various options for expansion of waste disposal operations at Ramona Landfill. The Ramona Landfill is estimated to reach its capacity in the next two years.

Allied Waste Inc. is currently evaluating two alternatives for continuing waste disposal operations at the Ramona Landfill: a) lateral expansion of landfill operations into an 80-acre parcel located north of the current waste management unit or b) a 40 foot vertical expansion of the landfill operations upon the current operating footprint of the waste management unit. Significant issues associated with these alternatives include: the validity of the existing CEQA documents, issued to the former owner (County of San Diego) in 1987 and 1993, for the proposed expansion of the waste disposal operations into the northern parcel. In 1998, by letter the Regional Board notified San Diego Landfill Systems that the CEQA documents were considered to be deficient and unacceptable. Other significant issues may be associated with the water quality impacts to the riparian habitat area located in the parcel including the proposed expansion footprint and the need for water quality certification under Section 401 of the Clean Water Act.

Initially, the representatives from Allied Waste Inc. seemed to prefer the lateral expansion option to the vertical expansion of the facilities. However, the general consensus of the regulatory agency representatives was that a vertical expansion of the landfill might be more expeditious requiring less environmental review and/or permitting. Allied Waste Inc. has approximately 6 months to decide if they wish to pursue one of the expansion alternatives or initiate the closure process under CCR Title 27 for the Ramona Landfill. The staff will continue to update the Regional Board in future Executive Officer Reports.

11. Prima Deshecha Landfill–Orange County (*Amy Fortin & John Odermatt*) (*Attachment B-11*)

On February 11, 2002, the Regional Board Executive Officer issued a conditional 401 Water Quality certification ("401 WQ certification") for the landslide remediation project (RWQCB File No. 01C-112) at the Prima Deshecha Landfill. The 401 WQ certification addressed only the project to remediate the landslide area. The 401 WQ certification does not constitute approval by the Regional Board for construction of a waste management unit (cell) over either the areas: (1) under remediation or (2) formerly occupied by the landslide. Both of these areas appear to be located in the proposed Phase B cell. On April 14, 2003, the Regional Board staff notified the discharger that the Joint Technical Document (JTD)/ Report of Waste Discharge (ROWD) for construction of the Phase B cell was deemed incomplete (see Item 22 in the Executive Officer Report for the meeting on April 9, 2003).

During May 2003, the discharger was in the process of completing grading work for the landslide remediation project. The objective was to stabilize the active landslide located immediately adjacent to Prima Deshecha Cañada (creek), and re-align and restore the beneficial uses of the Prima Deshecha Cañada (i.e., biomitigation channel project). Between May 14 and May 28, 2003 the discharger observed additional failure of the slope face and bedrock in the bottom of the proposed biomitigation channel. The discharger concluded that based on the recent activity that if the slide is left alone it would continue to move and substantially impact the channel improvement and habitat mitigation required as conditions of the 401 WQ certification. Attachment B-11 illustrates the approximate limits of the landslide described above.

The discharger recommended that the most feasible remedy for permanently stabilizing the landslide would involve the placement of fill within the newly-realigned Prima Deshecha Cañada (biomitigation) channel. The discharger will prepare revised grading plans to address the removal of materials in an effort to increase slope stability. These remedies may also include revisions to the mitigation plan to comply with mitigation acreage requirements identified in the Regional Board's 401 WQ certification requirements (from February 11, 2002) and by the current permits. The discharger has asserted that no new impacts will result from the proposed actions.

12. Investigation of Alleged Issues with Hidden Meadows Development Project, San Diego County (Eric Becker) (Attachment B-12)

During the public forum on May 14, 2003, Mr. George Courser, a resident in the Hidden Meadows community, notified the Regional Board of his concerns with a new development project being constructed in his area. Hidden Meadows is in the unincorporated area of San Diego County, north of the City of Escondido, east of Interstate I-15 and west of the community of Valley Center.

As discussed in the May Executive Officer's Report, Greystone/Lennar Homes is currently doing mass grading for construction of additional homes on approximately 150 acres within the Hidden Meadows community. The Environmental Impact Report for the project was approved by the County in 1987 and was subsequently modified with an addendum. Mr. Courser, who states that he represents several residents, considers the

County's CEQA process for this project to be flawed. He contends that the County Department of Planning and Land Use should have prepared a "supplemental" or "subsequent" EIR, allowing the public to provide new input into the process.

Mr. Courser also raised concerns about the post construction impacts of the project. The CEQA addendum was approved by the County prior to the effective date of the San Diego Municipal Storm Water Permit's new development requirements. The storm water permit specifically states that if a copermittee determines that lawful prior approval of a project exists, whereby application of post construction Standard Urban Storm Water Mitigation Plans (SUSMP) requirements to the project is infeasible, the SUSMP requirements need not apply to the project.

Attached is a copy of the letter responding to the issues raised by Mr. Courser. In assessing the issues, we have concluded that grading and fill activities are consistent with the project description that received a 401 water quality certification by the Regional Board in 2001. We have also concluded that the County of San Diego has provided sufficient regulatory oversight of construction activities and has taken appropriate enforcement actions for violations of their grading ordinance within their statutory limitations. These violations include the discharge of sediment laden water from a sedimentation basin, the discharge of 1.1 million gallons of potable water, and the lack of adequate BMPs. As noted in the letter, the U.S. Environmental Protection Agency (EPA) intends to investigate the issues related to erosion control during construction of the project. The Regional Board will cooperate with U.S. EPA in their investigation and will continue to evaluate future efforts by Greystone to comply with construction storm water requirements.

13. USMC Camp Pendleton Consent Decree (*Chiara Clemente*) (*Attachment B-13*)

On May 13, 2003 a Consent Decree was filed with the U. S. District Court between the United States Marine Corps Base Camp Pendleton (Base) and four different environmental organizations. The Consent Decree was the outcome of a settlement between the organizations and the Base that requires the Base to upgrade its existing NPDES permitted sewage treatment plants and to reduce the number of sewage spills from their collection system. All participating parties have agreed to sign the document; however, it will not become final until expiration of a 30-day public review and comment period and final approval by the Court. The decree would establish acceptable interim spill criteria and effluent limitations, and additional measures for reporting and record keeping. While a final date for complete compliance is not specified in the decree, the Base would be required to file a Record of Decision for an acceptable long-term compliance solution by September 30, 2004. Overall this settlement is supportive of the Regional Board's efforts to bring the Base into compliance with requirements issued by this Board. The Consent Decree is attached (B-13).

14. Mosquitoes in Santee (*Pete Michael*) (*Attachment B-14*)

The State Board on May 22, 2003 forwarded an e-mail from Victoria Gunter of Santee (San Diego County) concerning heavy concentrations of mosquitoes at the San Diego River near Cuyamaca Street and next to residential areas and shopping centers. Her correspondence indicated the City of Santee had informed her that the State Regional Water Quality Control Board had prohibited Santee from applying herbicides to control excessive cattail growth and that the Board had also denied an aquatic pesticide permit to San Diego County for weed abatement in the River. Our review determined Ms. Gunter had been given incorrect information. Santee had neither applied for coverage under the State Board's aquatic pesticide permit nor for CWA Section 401 certification for vegetation removal. The County of San Diego is an enrollee in the statewide aquatic pesticide emergency general permit (2001-12-DWQ) and plans to apply the herbicide glyphosate (Monsanto Aquamaster®) throughout the County to control aquatic vegetation.

The Regional Board contacted San Diego County Vector Control, the City of Santee, and Ms. Gunter, and informed the parties about California's aquatic pesticide permit. Santee officials were also planning to meet with the U.S. Fish and Wildlife Service to discuss the least Bell's vireo and the need for habitat protection and possible vector control should West Nile Virus be detected in San Diego County. The Service had informed Santee that bird populations could be infected with the virus and that mosquito control could be needed to protect this endangered species.

The arrival of West Nile Virus in California could present a similar dilemma for the state and regional boards, vector control agencies, infectious disease agencies, flood control agencies, and state and federal wildlife protection agencies. The events in Santee illustrate the need for public agencies to understand their authorities and responsibilities and to plan cooperative actions before the virus is detected in southern California.

Attachment: San Diego Regional Board's notice reminding public agencies to apply for coverage under the State Board's aquatic pesticide permit.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Request for Authorization for Use of State Defensive Measures Funds (*David Hanson*)
(Attachment C-1)

On May 9, 2003 the City of San Diego submitted a request to State Water Resources Control Board for authorization to use the remaining \$500,000 of the State of California Defensive Measures Special Appropriation (\$5.3 million set aside in the 1980s for use by the City of San Diego for projects to protect public health and the environment from wastewater discharges from Mexico). Per our discussions with SWRCB staff, their approval of the request is expected soon. See Attachment C-1 for a copy of the request.